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GOOGLE INC.

12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA
14 SAN FRANCISCO DIVISION

15 ORACLE AMERICA, INC.,

16 Plaintiffs,

17 v.

18 GOOGLE INC.,

19 Defendant.
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Case No. 3:10-cv-03561 WHA

**GOOGLE INC.'S COMMENT ON
TENTATIVE ORDER CLARIFYING
ASSIGNMENT OF RULE 706 EXPERT**

Judge: Hon. Donna M. Ryu

Date Filed: August 12, 2010

Trial Date: May 9, 2016

1 Google submits the following comment in response to Court's Tentative Order Clarifying
2 Assignment of Rule 706 Expert (ECF 1384). In paragraph 4 of the Tentative Order, *id.* at 3:4, the
3 Court directs that "Oracle and Google will each have up to seven hours to question Dr. Kearl."
4 The parties have already deposed Dr. Kearl once in this case, on March 26, 2012, regarding his
5 previous expert report on patent and copyright damages. That deposition was set for a single
6 seven-hour session, with Oracle and Google agreeing to split the seven hours equally. The
7 deposition began at 9:37 a.m. and concluded at 2:46 p.m. Accounting for periodic breaks during
8 the examination and a somewhat longer break for lunch, the parties completed the deposition in
9 only about four hours of time on the record. Accordingly, in light of past experience, Google
10 suggests that the Court modify its Tentative Order to provide that Oracle and Google shall each
11 have three-and-a-half hours to question Dr. Kearl, which will permit the parties to complete the
12 deposition in a single day.

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14 Dated: December 2, 2015

KEKER & VAN NEST LLP

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16 By: /s/ Robert A. Van Nest
ROBERT A. VAN NEST

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18 GOOGLE INC.
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